(3)

SUPREME COURT OF THE UNITED STATES

JOSEPH MARION HEAD, JR. *v.* LACY H. THORNBURG, ATTORNEY GENERAL OF NORTH CAROLINA

ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

No. 91-6392. Decided March 2, 1992

The motion of petitioner for leave to proceed *in forma pauperis* is denied pursuant to Rule 39.8. Petitioner is allowed until March 23, 1992 within which to pay the docketing fee required by Rule 38 and to submit a petition in compliance with Rule 33 of the Rules of this Court.

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

Earlier this Term, the Court applied its new Rule 39.8[1] for the first time, denying *in forma pauperis* status to two indigent litigants—Vladimir Zatko and James Martin. *Zatko* v. *California*, 502 U. S. ___ (1991) *(per curiam)*. In explaining its action, the Court emphasized that Zatko and Martin were "unique." *Id.*, at ___ (slip op., at 4). What distinguished these petitioners, the Court explained, was not the frivolousness, but the frequency of their filings. Indeed, the Court found it "important to observe" that it had not applied Rule 39.8 to numerous other frivolous petitions. *Ibid.* The Court noted that these other petitions were denied "in the usual manner, underscoring our

---

[1] This Court's Rule 39.8 provides:

"If satisfied that a petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ, as the case may be, is frivolous or malicious, the Court may deny a motion for leave to proceed *in forma pauperis*."

2 pp

commitment to hearing the claims, however meritless, of the poor." *Ibid.*

Zatko had filed 73 petitions in this Court over the past 10 years; Martin had filed more than 45. *Id.*, at ___ (slip op., at 3). In invoking Rule 39.8 today, the Court denies leave to proceed *in forma pauperis* to petitioner Joseph Head. Head has previously filed *one* petition in this Court.[2]

Today's action thus represents an unexplained expansion of Rule 39.8 and an apparent rejection of the explanation for the action taken with respect to petitioners Zatko and Martin. I would grant leave to proceed *in forma pauperis*, deny the petition for writ of certiorari, and get on with the business of the Court.

---

[2] See *Head* v. *Pinion*, 500 U. S. ___ (1991).